

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: McKenzie Dean	Team: Squad #16	CCRB Case #: 202107869	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 12/27/2021 7:40 PM, Monday, 12/27/2021 8:00 PM	Location of Incident: Myrtle Avenue and Marcy Avenue; PSA 3 stationhouse	18 Mo. SOL 6/27/2023	Precinct: 79		
Date/Time CV Reported Tue, 12/28/2021 3:14 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 12/28/2021 3:14 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. PO Andrea Nievessantiago	07534	966739	PSA 3
3. PO Luis Sandres	04509	964752	PSA 3
4. PO Pascual Melo	06249	966218	PSA 3
5. PO Mohammad Abdelfattah	00603	965915	PSA 3

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Christopher Racicot	25699	961137	PSA 3

Officer(s)	Allegation	Investigator Recommendation
A. PO Luis Sandres	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Luis Sandres questioned § 87(2)(b)	
B. PO Luis Sandres	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Luis Sandres questioned § 87(2)(b)	
C. PO Mohammad Abdelfattah	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah questioned § 87(2)(b)	
D. PO Mohammad Abdelfattah	Discourtesy: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah spoke discourteously to § 87(2)(b)	
E. PO Pascual Melo	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Pascual Melo searched the vehicle in which § 87(2)(b) was an occupant.	
F. PO Luis Sandres	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Luis Sandres threatened § 87(2)(b) with the use of force.	
G. PO Mohammad Abdelfattah	Force: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah used physical force against § 87(2)(b)	
H. PO Pascual Melo	Force: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Pascual Melo used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
I.PO Pascual Melo	Discourtesy: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Pascual Melo spoke discourteously to § 87(2)(b)	
J.PO Pascual Melo	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Pascual Melo refused to provide his name to § 87(2)(b)	
K.PO Pascual Melo	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Pascual Melo refused to provide his shield number to § 87(2)(b)	
L.PO Pascual Melo	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Pascual Melo failed to provide § 87(2)(b) with a business card.	
M.PO Mohammad Abdelfattah	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah refused to provide his name to § 87(2)(b)	
N.PO Mohammad Abdelfattah	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah refused to provide his shield number to § 87(2)(b)	
O.PO Mohammad Abdelfattah	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah failed to provide § 87(2)(b) with a business card.	
P.PO Mohammad Abdelfattah	Discourtesy: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah spoke discourteously to § 87(2)(b)	
Q. An officer	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, an officer refused to provide their name to § 87(2)(b)	
R. An officer	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, an officer refused to provide their shield number to § 87(2)(b)	
S.PO Mohammad Abdelfattah	Force: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah used physical force against § 87(2)(b)	
T.PO Mohammad Abdelfattah	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah frisked § 87(2)(b)	
U. An officer	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, an officer frisked § 87(2)(b)	
V.PO Mohammad Abdelfattah	Discourtesy: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah spoke discourteously to § 87(2)(b)	
W.PO Andrea Nievessantiago	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Andrea Nievessantiago seized § 87(2)(b) property.	
X.PO Luis Sandres	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Luis Sandres seized § 87(2)(b) property.	
Y.PO Mohammad Abdelfattah	Abuse: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah seized § 87(2)(b) property.	

Officer(s)	Allegation	Investigator Recommendation
Z.PO Andrea Nievessantiago	Discourtesy: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Andrea Nievessantiago spoke discourteously to § 87(2)(b)	
2A.PO Mohammad Abdelfattah	Discourtesy: At the PSA 3 stationhouse, Police Officer Mohammad Abdelfattah spoke discourteously to § 87(2)(b)	
2B.PO Luis Sandres	Abuse: At the PSA 3 stationhouse, Police Officer Luis Sandres searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
2C.PO Andrea Nievessantiago	Abuse: At the PSA 3 stationhouse, Police Officer Andrea Nievessantiago searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	

### Case Summary

On December 28, 2021, § 87(2)(b) filed this complaint with the CCRB online.

On December 27, 2021, at approximately 7:40 PM, § 87(2)(b) was in the passenger seat of her rental car which her fiancé, § 87(2)(b) was driving on Myrtle Avenue and Marcy Avenue in Brooklyn, when they were stopped by PO Andrea Nieves Santiago and PO Luis Sandres, both of PSA 3, for failing to signal a lane change. PO Sandres asked § 87(2)(b) if he had been smoking or drinking (**Allegation A: Abuse of Authority**, § 87(2)(g) (**Allegation B: Abuse of Authority**, § 87(2)(g) PO Mohammad Abdelfattah and PO Pascual Melo, both of PSA 3, parked in front of § 87(2)(b) vehicle and approached it on the passenger side. PO Abdelfattah asked § 87(2)(b) if there was anything inside the car that the officers should know about, like knives and blades (**Allegation C: Abuse of Authority**, § 87(2)(g) PO Abdelfattah said, “Shit” several times while speaking with § 87(2)(b) (**Allegation D: Discourtesy**, § 87(2)(g) PO Melo asked § 87(2)(b) if he could lift up a jacket in the backseat, which § 87(2)(b) did (**Allegation E: Abuse of Authority**, § 87(2)(g) § 87(2)(b) PO Sandres ran § 87(2)(b) name and found that he had an active warrant from Ramapo Police Department. The officers arrested § 87(2)(b) on the warrant and, as PO Sandres was putting him into a police vehicle, he said, “Get inside the car or I’m gonna throw you inside the car” (**Allegation F: Abuse of Authority**, § 87(2)(g) § 87(2)(b) brother, § 87(2)(b) arrived on scene and PO Abdelfattah and PO Melo told him to get on the sidewalk and allegedly pushed him (**Allegation G: Force**, § 87(2)(g) (**Allegation H: Force**, § 87(2)(g) PO Melo then said, “Fuck” (**Allegation I: Discourtesy**, § 87(2)(g) § 87(2)(b) allegedly requested PO Melo’s and PO Abdelfattah’s names, shield numbers, and business cards, and they allegedly refused to provide them (**Allegations J-L: Abuse of Authority**, § 87(2)(g) § 87(2)(b) (**Allegations M-O: Abuse of Authority**, § 87(2)(g) § 87(2)(b) approached PO Melo’s vehicle while PO Melo was inside and PO Abdelfattah told him “Get away from the fucking car” (**Allegation P: Discourtesy**, § 87(2)(g) § 87(2)(b) allegedly asked an unidentified officer for his name and shield number, and the officer allegedly refused to provide this information (**Allegations Q and R: Abuse of Authority**, § 87(2)(g) § 87(2)(b) PO Abdelfattah allegedly pushed § 87(2)(b) and he and another unidentified officer allegedly frisked her (**Allegation S: Force**, § 87(2)(g) (**Allegation T: Abuse of Authority**, § 87(2)(g) (**Allegation U: Abuse of Authority**, § 87(2)(g) PO Abdelfattah told § 87(2)(b) “Give me the fucking key” (**Allegation V: Discourtesy**, § 87(2)(g) § 87(2)(b) and then took the car key from her. The officers seized the vehicle and PO Abdelfattah drove it to the PSA 3 stationhouse (**Allegations W-Y: Abuse of Authority**, § 87(2)(g) § 87(2)(b)

PO Sandres and PO Nieves Santiago transported § 87(2)(b) to the stationhouse, and during the ride, PO Nieves Santiago told him, “This is a first-time thing and you fucked up” (**Allegation Z: Discourtesy**, § 87(2)(g) § 87(2)(b) When § 87(2)(b) arrived at the stationhouse, PO Abdelfattah told him, “Had it not been for you trying to cause a scene on the fucking traffic stop.” (**Allegation AA: Discourtesy**, § 87(2)(g) § 87(2)(b) After PO Sandres and PO Nieves Santiago lodged § 87(2)(b) in a holding cell, they searched his vehicle (**Allegations AB and AC: Abuse of Authority**, § 87(2)(g) § 87(2)(b) The officers called Ramapo Police Department and were advised to release § 87(2)(b) because their agency was short on manpower and could not pick him up. PO Sandres and PO Nieves Santiago released § 87(2)(b) with the vehicle and issued him summons #§ 87(2)(b) (**BR 04**) for failing to signal.

BWC footage was received from the cameras of PO Melo, PO Nieves Santiago, PO Sandres, PO Abdelfattah, PO Goldstein, and PO Racicot (**BR 05-BR 15**). § 87(2)(b) provided a four second video of the incident, which depicts § 87(2)(b) being arrested (**BR 37**).

**Allegation (A) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Luis Sandres questioned § 87(2)(b)**

**Allegation (B) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Luis Sandres questioned § 87(2)(b)**

It is undisputed that PO Sandres and PO Nieves Santiago stopped § 87(2)(b) vehicle for failing to signal while changing lanes (**BR 04**). Upon approaching the vehicle, PO Sandres asked § 87(2)(b) if he had been smoking or drinking.

The investigation was unable to obtain statements from § 87(2)(b) or § 87(2)(b) because they were unavailable and uncooperative, respectively.

§ 87(2)(b) (**BR 16**) stated that he arrived on scene as the officers were already speaking with § 87(2)(b) and § 87(2)(b). § 87(2)(b) made no mention of any officers asking § 87(2)(b) if he had been smoking or drinking.

PO Sandres (**BR 18**) stated that when he first approached the vehicle, he noticed an odor of freshly burnt marijuana, as if § 87(2)(b) had just finished smoking. Aside from the odor of marijuana, PO Sandres did not recall there being any other indication that there was marijuana inside the vehicle. PO Sandres had no knowledge of any other officers observing the smell of marijuana during the incident and he did not think there was any conversation between officers about the odor.

PO Sandres asked § 87(2)(b) if he had been smoking marijuana and § 87(2)(b) said something along the lines of, "Marijuana is legal." PO Sandres explained that even though marijuana was legal, § 87(2)(b) could not smoke it inside of a vehicle on a public street. PO Sandres initially stated that he did not recall asking § 87(2)(b) about drinking, however upon viewing 01:35 to 01:43 of his own BWC footage (**BR 07**), he acknowledged doing so. PO Sandres explained that he asked this because people usually smoke marijuana and drink at the same time and he smelled marijuana. PO Sandres stated that he would ask people whether they had been drinking to see what the person is willing to say because sometimes they will admit to both smoking and drinking. Other than the odor of marijuana, PO Sandres did not recall anything else that led him to ask § 87(2)(b) about drinking.

PO Nieves Santiago (**BR 19**) did not recall if PO Sandres asked § 87(2)(b) if he had been smoking or drinking. PO Nieves Santiago did not recall having any reason to believe that § 87(2)(b) was under the influence during the incident. PO Nieves Santiago did not recall if she observed an odor of marijuana during the incident. PO Nieves Santiago explained that she does "100 car stops a day."

PO Abdelfattah (**BR 17**) did not hear PO Sandres ask § 87(2)(b) if he had been smoking or drinking. PO Abdelfattah believed PO Sandres told § 87(2)(b) that he was observed smoking marijuana, however he was not certain of this. PO Abdelfattah explained that he overheard PO Sandres and § 87(2)(b) mention something about marijuana during their conversation. PO Abdelfattah told § 87(2)(b) that if PO Sandres pulled him over for marijuana, this was because he cannot smoke marijuana while the vehicle was being operated, even though marijuana was legal. PO Abdelfattah did not recall if he smelled marijuana during the incident and he did not have any conversation with any officers about smelling an odor of marijuana. PO Abdelfattah did not recall if he observed any indication that the occupants had been drinking or smoking.

A statement could not be obtained by PO Melo because he is on military leave with no estimated return date according to PAA Spence from PSA 3 Roll Call. As of March 7, 2023, PO Melo is assigned to the Military and Extended Leave Desk (MELD).

At 01:00 into PO Sandres' BWC footage (**BR 07**), he approaches § 87(2)(b) vehicle. At 01:18, PO Sandres tells § 87(2)(b) he failed to signal coming out of a parking spot. At 01:40, PO Sandres asks § 87(2)(b) if he had been smoking or drinking. § 87(2)(b) says

he was not smoking or drinking anything. PO Sandres says the car smells like marijuana. § 87(2)(b) says that PO Sandres cannot stop him for marijuana because it is legal. PO Sandres tells § 87(2)(b) he cannot drive if he is impaired. § 87(2)(b) says that he was not driving and smoking and says PO Sandres did not see him smoking anything. PO Sandres does not tell § 87(2)(b) why he believed he was under the influence of alcohol.

In People v. DeBour, 40 N.Y.2d 210 (BR 20), the court held the common-law right to inquire, is activated by a founded suspicion predicated on specific articulable facts that criminal activity is afoot.

NY CLS Vehicle & Traffic Law § 1192 (BR 30) prohibits any person from operating a motor vehicle while the person's ability to operate such a motor vehicle is impaired by the combined influence of drugs or of alcohol and any drug or drugs.

Although PO Sandres stated that he smelled an odor of marijuana during the incident, § 87(2)(g) BWC footage depicts § 87(2)(b) denying that he had been smoking prior to the incident, § 87(2)(g)

Furthermore, given that PO Sandres stated that he asked § 87(2)(b) if he had been drinking solely because he smelled an odor of marijuana and because he believed that people usually smoke marijuana and drink at the same time, without observing any specific indication that § 87(2)(b) may have been drinking, § 87(2)(g)

**Allegation (C) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah questioned § 87(2)(b)**

It is undisputed that PO Abdelfattah spoke with § 87(2)(b) and § 87(2)(b) on the passenger side of the vehicle during the traffic stop.

§ 87(2)(b) made no mention of PO Abdelfattah asking § 87(2)(b) about what was inside his vehicle.

PO Abdelfattah stated that he asked both the occupants if there was anything, specifically any weapons, inside of the vehicle and they said no, however BWC footage depicts him only asking § 87(2)(b) this. PO Abdelfattah stated that he asked about weapons during the incident because sometime that week (he did not recall what day), he received an intel flyer on his department email that stated that a firearm may be inside a specific vehicle and advised them to approach that vehicle with caution. The flyer listed the model, make, color, year, and plate number of a specific vehicle to look out for as well along with the area in which the vehicle would frequently be found.

The flyer which PO Abdelfattah believed was associated with § 87(2)(b) vehicle specifically listed a grey or blue Audi with New Jersey license plates, all of which matched § 87(2)(b) vehicle. PO Abdelfattah did not recall the specific make and model of the listed vehicle because the incident was a year prior to his interview. PO Abdelfattah stated that at the time of the incident, he knew the exact description that was on the flyer. PO Abdelfattah stated that he believed § 87(2)(b) vehicle matched the description of the vehicle listed on the intel flyer. The flyer stated that the vehicle in question would typically be found in the area of Marcy Houses, which was a block away from the traffic stop.

PO Abdelfattah stated that the information on intel flyers would typically be received from confidential informants. The flyer associated with § 87(2)(b) vehicle did not include any information about where the intel about the vehicle had been received from and PO Abdelfattah had no knowledge of how the information on the flyer had been obtained. PO Abdelfattah believed that

he told PO Sandres and PO Nieves Santiago that § 87(2)(b) vehicle matched the one listed on the flyer even though the intel flyer was a precinct-wide email, so all the officers would have known about it. PO Abdelfattah stated that he and PO Melo also spoke about the intel flyer prior to exiting their vehicle and approaching § 87(2)(b) vehicle.

PO Abdelfattah stated that he also asked the occupants about weapons inside the vehicle because § 87(2)(b) was laid back in her seat and she had a puffy jacket on, so the officers could not see what was around her or if she was going to reach for anything by her hands. PO Abdelfattah was also concerned about the possibility of weapons in the vehicle because of the demeanor of § 87(2)(b) which was nervous and agitated, despite the situation being a routine car stop. PO Abdelfattah was also concerned about weapons because the traffic stop was in the vicinity of Marcy Houses, where a lot of guns are circulating throughout the community. PO Abdelfattah also asked the occupants if there was anything sharp inside the vehicle, however, there was nothing specific that led him to be concerned about sharp objects, such as knives, being inside the vehicle.

PO Sandres and PO Nieves Santiago both did not know if any officers asked § 87(2)(b) if there was anything inside the car that the officers should know about. PO Sandres stated that he did not have any concern about § 87(2)(b) having a weapon on him or in the vehicle during the incident and PO Nieves Santiago stated she had no concern about any contraband inside § 87(2)(b) vehicle.

At 01:15 into PO Abdelfattah's BWC footage (BR 08), he approaches § 87(2)(b) vehicle. At 02:50, he asks § 87(2)(b) if there is anything on him or inside the car that the officers should know about. § 87(2)(b) says there is not. PO Abdelfattah says, "I'm not talking about guns like any knives, blades, shit like that?" § 87(2)(b) says there is nothing in the car. The footage does not depict PO Abdelfattah mentioning an intel flyer to PO Sandres or PO Nieves Santiago.

The intel flyer allegedly associated of the vehicle in question which matched § 87(2)(b) vehicle was requested from PSA 3 on March 1, 2023 and has yet to be received. Although the request for the intel flyer is pending, the investigation determined based on PO Abdelfattah's testimony that there is a low possibility of obtaining the document absent the date that it was sent out or any specific case information associated with the intel listed on the flyer.

In People v. DeBour, 40 N.Y.2d 210 (BR 20), the court held the common-law right to inquire is activated by a founded suspicion predicated on specific articulable facts that criminal activity is afoot.

Although PO Abdelfattah stated that he was concerned about weapons inside the vehicle due to the positioning of § 87(2)(b) in her seat and the jacket she was wearing, the demeanor of § 87(2)(b) and the weapon-prone location of the traffic stop, these factors alone did not provide PO Abdelfattah with any specific indication that there was a weapon inside § 87(2)(b) vehicle. However, the intel flyer described by PO Abdelfattah in his interview, which he claimed matched § 87(2)(b) vehicle, § 87(2)(g)

Nevertheless, given that the investigation is not in possession of the intel flyer, that PO Sandres and PO Nieves Santiago had no recollection of the flyer, § 87(2)(g)

§ 87(2)(g)

**Allegation (D) Discourtesy: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah spoke discourteously to § 87(2)(b)**

**Allegation (E) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Pascual Melo searched the vehicle in which § 87(2)(b) was an occupant.**



§ 87(2)(b) made no mention of any officers using profanity or asking § 87(2)(b) to lift his jacket.

PO Abdelfattah initially denied using profanity during the incident and stated that he did not recall saying, “Shit” while speaking with § 87(2)(b) however, upon viewing 02:50 to 03:12 of his own BWC footage (BR 08), he acknowledged doing so. PO Abdelfattah said that it was just a “slip up.” PO Abdelfattah explained that he was involved in an incident not too long ago during which someone had a gun under a jacket in the backseat. When PO Melo mentioned this, this incident came to mind and PO Abdelfattah did not want this to happen. PO Abdelfattah stated that PO Melo asked the occupants to lift a jacket in the backseat.

PO Sandres and PO Nieves Santiago both did not recall any officers using profanity during the incident. PO Sandres stated that he did not witness PO Melo ask § 87(2)(b) if he could lift a jacket in the backseat and PO Nieves Santiago stated that she did not recall this occurring. PO Sandres stated that he did not have any concern about § 87(2)(b) having a weapon on him or in the vehicle during the incident and PO Nieves Santiago stated she had no concern about any contraband inside § 87(2)(b) vehicle.

At 02:48 into PO Abdelfattah’s BWC footage (BR 08), PO Abdelfattah asks § 87(2)(b) if there is anything inside the car the officers should know about. § 87(2)(b) says there is not. PO Abdelfattah says, “I’m not talking about guns like any knives, blades, shit like that?” At 02:57, PO Melo asks § 87(2)(b) if he can lift his jacket in the backseat. § 87(2)(b) asks why he must lift his jacket. PO Abdelfattah tells § 87(2)(b) “We have people like, you know sometimes put their shit in the back they’ll have shit on the...” At 05:25, PO Sandres asks § 87(2)(b) to step out of the car and tells him that he has a warrant.

Patrol Guide Procedure 200-02 (BR 22) states members of service must respect the dignity of each individual and render services with courtesy and civility. While police officers are held to a high standard of conduct, traditional rules of etiquette cannot be applied to stressful enforcement situations. Disciplinary Case 2013-10143 (BR 23) states that officers may use profanities “in the context of a dynamic situation over which [he or she is] attempting to gain control,” but may not do so when it “[serves] no legitimate purpose but to belittle” a civilian.

Given that when PO Abdelfattah used profanity toward § 87(2)(b) it was in the context of a casual conversation during a routine traffic stop, which the officers had under control, and that PO Abdelfattah stated that his profanity use was a slip up without providing any additional justification for it that was related to the incident, § 87(2)(g)

Although it is undisputed that PO Melo asked § 87(2)(b) to lift his jacket, § 87(2)(g)

**Allegation (F) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Luis Sandres threatened § 87(2)(b) with the use of force.**

It is undisputed that after § 87(2)(b) was arrested, PO Sandres and PO Nieves Santiago brought him to their vehicle.

Although § 87(2)(b) made no mention of PO Sandres threatening to throw § 87(2)(b) into the vehicle, BWC captures this.

PO Sandres stated that he told § 87(2)(b) to get inside the police car or he was going to throw him inside the car because § 87(2)(b) did not want to get inside the vehicle, and he was under arrest. § 87(2)(b) was actively resisting as PO Sandres was trying to put him into the vehicle by tensing his arms and body and stiffening up. PO Sandres said that throwing someone



into a vehicle would not be a means to put them inside but guiding them and forcing them inside would be.

PO Sandres stated that he was not going to throw § 87(2)(b) into the car in handcuffs because § 87(2)(b) would get hurt. However, in making this statement, PO Sandres was telling § 87(2)(b) that he needed to get into the car, or the officers would find a way to get him inside. PO Sandres stated that typically in this situation, the officers will have another officer to go inside the car to pull the arrestee in as the other officers lift the person to put them inside. This was what PO Sandres meant when he made this statement. PO Sandres said this to gain voluntary compliance from § 87(2)(b) § 87(2)(b) ultimately ended up getting into the car without the officers using any force against him.

PO Nieves Santiago did not recall if § 87(2)(b) was compliant with getting into the vehicle and she did not recall anything that he was doing physically while the officers were putting him inside the vehicle. Based on her BWC footage, which she viewed prior to her CCRB interview, PO Nieves Santiago believed that when she brought § 87(2)(b) to the police vehicle, the scene was hostile because she could hear a commotion and a lot of sirens in the background. PO Nieves Santiago did not see anything that led her to believe that the scene was hostile. PO Nieves Santiago explained that she was focused on getting § 87(2)(b) into her vehicle and calming him down.

PO Abdelfattah stated that PO Sandres and PO Nieves Santiago brought § 87(2)(b) to a police vehicle while he and PO Melo remained with § 87(2)(b).

At 09:35 into PO Sandres' BWC footage (BR 07), he and PO Nieves Santiago are walking § 87(2)(b) to their vehicle as he yells at them. At 09:45, PO Nieves Santiago opens the door to the backseat of the officers' vehicle. PO Sandres tells § 87(2)(b) to get into the vehicle several times as § 87(2)(b) stands next to it and yells at § 87(2)(b) § 87(2)(b) says, "Stop playing," to PO Sandres. At 10:06, PO Sandres grabs the hood of § 87(2)(b) sweatshirt as he continues telling him to get inside the car. § 87(2)(b) begins leaning into the vehicle as PO Sandres says, "Get inside the car or I'm gonna throw you inside the car." The officers put § 87(2)(b) into the backseat and close the door.

Patrol Guide Procedure 221-01 (BR 21) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or prevent escape from custody.

Although PO Sandres stated that when he told § 87(2)(b) that he would throw him inside the car, he meant that he and the other officers would guide him inside, he specifically used the word "throw" when he made this statement. Given that PO Sandres acknowledged that he would not have actually thrown § 87(2)(b) into the vehicle because he was in handcuffs and would have gotten hurt, and that at the time PO Sandres said this, § 87(2)(b) had only been refusing to enter the vehicle, § 87(2)(g)

**Allegation (G) Force: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah used physical force against § 87(2)(b)**

**Allegation (H) Force: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Pascual Melo used physical force against § 87(2)(b)**

**Allegation (I) Discourtesy: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Pascual Melo spoke discourteously to § 87(2)(b)**

**Allegation (J) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Pascual Melo refused to provide his name to § 87(2)(b)**

**Allegation (K) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Pascual Melo refused to provide his shield number to § 87(2)(b)**

**Allegation (L) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police**

**Officer Pascual Melo failed to provide § 87(2)(b) with a business card.**  
**Allegation (M) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah refused to provide his name to § 87(2)(b)**  
**Allegation (N) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah refused to provide his shield number to § 87(2)(b)**  
**Allegation (O) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah failed to provide § 87(2)(b) with a business card.**  
**Allegation (P) Discourtesy: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah spoke discourteously to § 87(2)(b)**  
**Allegation (Q) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, an officer refused to provide their name to § 87(2)(b)**  
**Allegation (R) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, an officer refused to provide their shield number to § 87(2)(b)**  
**Allegation (S) Force: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah used physical force against § 87(2)(b)**  
**Allegation (T) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah frisked § 87(2)(b)**  
**Allegation (U) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, an officer frisked § 87(2)(b)**

It is undisputed that before he was arrested, § 87(2)(b) called § 87(2)(b) and told him to come to the scene. § 87(2)(b) was instructed to exit the passenger seat when § 87(2)(b) was arrested, which she did. § 87(2)(b) arrived on scene and an officer told him to back up onto the sidewalk as he pushed him in his torso. PO Abdelfattah told § 87(2)(b) to back away from a vehicle at one point. Although § 87(2)(b) did not allege that PO Abdelfattah used profanity when telling him to back away from the car, BWC footage depicts this occurring.

§ 87(2)(b) stated that he was speaking with PO Racicot when PO Abdelfattah screamed at him from about 10 feet away, “Get back!” None of the officers closer to § 87(2)(b) had asked him to get back prior to this. PO Abdelfattah ran up to § 87(2)(b) and pushed him on his chest two to three times. § 87(2)(b) could not remember how far he moved back when PO Abdelfattah pushed him. A black male officer (whose appearance § 87(2)(b) could not remember more specifically) pushed § 87(2)(b) once on his chest and said, “Move back.” § 87(2)(b) said, “I need your name and your badge number, and I want your card,” to PO Abdelfattah and the other officer who pushed him when he was less than a foot from the officers. PO Abdelfattah told § 87(2)(b) “No,” and then screamed, “Back away from the car,” multiple times. § 87(2)(b) also asked another officer, whom he did not describe, for his name and shield number, but the officer did not say anything in response. PO Abdelfattah went up to § 87(2)(b) and pushed her, but § 87(2)(b) did not recall where on her body he pushed her. At some point, PO Abdelfattah and another male officer, whose appearance § 87(2)(b) could not recall, frisked § 87(2)(b). § 87(2)(b) did not clearly witness the frisk.

PO Abdelfattah did not know if any officers pushed § 87(2)(b) in his chest and he did not recall if he did this himself. PO Sandres and PO Nieves Santiago both had no knowledge of any officers using force against § 87(2)(b) during the incident and PO Nieves Santiago had no recollection of § 87(2)(b) responding to the scene. PO Abdelfattah did not hear § 87(2)(b) request names, shield numbers, or business cards from any officers. PO Abdelfattah denied refusing to provide his name or shield number to any civilians and stated he did not provide his business card to anyone during the incident. PO Abdelfattah had no knowledge of any other officers refusing to provide their names, shield numbers, or business cards upon § 87(2)(b) request during the incident. PO Sandres and PO Nieves Santiago both had no

recollection of § 87(2)(b) asking any officers for their names, shield numbers, or business cards at any point.

PO Abdelfattah stated that officers did not push or frisk § 87(2)(b) and he denied doing these things himself. PO Sandres had no knowledge of any officers pushing or frisking § 87(2)(b). PO Nieves Santiago stated that she did not know if § 87(2)(b) was frisked and she did not recall PO Abdelfattah making physical contact with her during the incident. PO Sandres and PO Nieves Santiago both stated that they had no recollection of any officers using profanity during the incident.

PO Abdelfattah initially denied using profanity during the incident and stated that he did not recall if he told anyone, “Get away from the fucking car,” however, upon viewing 10:53 to 11:01 of his own BWC footage (**BR 08**), he acknowledged doing so. PO Abdelfattah stated that he said this because he was in a high stress situation, and he was using an aggressive tone to instruct § 87(2)(b) to move back to gain compliance. PO Abdelfattah explained that § 87(2)(b) approached PO Melo and got too close to his window as PO Melo was trying to drive away. PO Abdelfattah was concerned that PO Melo could have run § 87(2)(b) over or drove over his feet. PO Abdelfattah was also concerned about officer safety because prior to this moment, § 87(2)(b) had been ordered multiple times to film on the sidewalk and to step away from the officers. PO Abdelfattah was also concerned about § 87(2)(b) hurting PO Melo because the officers did not know what was in § 87(2)(b) pockets.

At 05:10 into PO Melo’s BWC footage (**BR 05**), § 87(2)(b) answers a FaceTime from § 87(2)(b). § 87(2)(b) says, “Yo, where you at? Come to Myrtle and um, and Marcy. Police is pulling me over I’m being harassed. Bring your cameras.” PO Abdelfattah tells § 87(2)(b) “If you bring people right now...” and § 87(2)(b) says, “Come right now, I don’t care about none of that.” At 05:40, PO Sandres tells § 87(2)(b) to step out of the car and tells him that he has a warrant. At 09:24, § 87(2)(b) is standing in the street filming the officers as they are arresting § 87(2)(b). At 09:30, § 87(2)(b) crosses the street and comes closer to the officers as he continues filming. PO Melo asks § 87(2)(b) to get on the sidewalk and to back up. § 87(2)(b) says, “Okay” and walks toward sidewalk.

At 09:28 into PO Abdelfattah’s BWC footage (**BR 08**), he tells § 87(2)(b) to get on the sidewalk. § 87(2)(b) remains in the street and asks PO Abdelfattah what is going on. PO Abdelfattah tells § 87(2)(b) that § 87(2)(b) has a warrant and tells him to get on the sidewalk. § 87(2)(b) approaches the police vehicle where PO Sandres and PO Nieves Santiago have § 87(2)(b) in custody. At 10:08 into PO Melo’s BWC footage (**BR 05**), PO Melo screams at § 87(2)(b) to back up and get on the sidewalk several times as § 87(2)(b) is standing next to the police vehicle that the officers are putting § 87(2)(b) into. § 87(2)(b) does not comply and at 10:15, PO Melo pushes § 87(2)(b) left shoulder. § 87(2)(b) takes several steps back. At 01:05 of PO Racicot’s BWC footage (**BR 10**), PO Melo first pushes § 87(2)(b) with his right hand and then pushes him again with his left hand against § 87(2)(b) chest area. At 10:18 of PO Melo’s BWC (**BR 05**), PO Melo walks away as he screams, “Fuck.” PO Melo turns back toward § 87(2)(b) and tells him to get on the sidewalk and that he told him three times. At 10:40, PO Melo gets into his vehicle and deactivates his BWC.

At 01:48 into PO Racicot’s BWC footage (**BR 10**), § 87(2)(b) steps off the sidewalk and approaches PO Melo’s vehicle as he says, “I want your [unintelligible] because you just assaulted me, boy. I want your badge. You heard? What’s your badge” as he approaches PO Melo, who is sitting in his vehicle. PO Abdelfattah screams at § 87(2)(b) “Get away from the fucking car now.” § 87(2)(b) backs away from PO Melo’s vehicle and says, “I want his badge” to PO Abdelfattah several times. PO Melo drives away. BWC footage does not depict PO Abdelfattah frisking § 87(2)(b) pushing § 87(2)(b) or § 87(2)(b) or § 87(2)(b) requesting PO Abdelfattah’s name, shield number, or business card.

Patrol Guide Procedure 200-02 (BR 22) states members of service must respect the dignity

of each individual and render services with courtesy and civility. While police officers are held to a high standard of conduct, traditional rules of etiquette cannot be applied to stressful enforcement situations. Disciplinary Case 2013-10143 (BR 23) states that officers may use profanities “in the context of a dynamic situation over which [he or she is] attempting to gain control,” but may not do so when it “[serves] no legitimate purpose but to belittle” a civilian.

Given that when PO Abdelfattah told § 87(2)(b) to “get away from the fucking car,” § 87(2)(b) was approaching PO Melo and yelling at him, that § 87(2)(b) had already refused multiple orders from several officers to back away from officers and § 87(2)(b) during § 87(2)(b) arrest, and that PO Abdelfattah’s profanity use was in the context of a lawful order, § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Moreover, although § 87(2)(b) alleged that PO Abdelfattah pushed him during the incident, and that he requested PO Abdelfattah’s name, shield number, and business card, BWC footage does not depict these things happening. In addition, the BWC footage does not depict PO Abdelfattah pushing or frisking § 87(2)(b) at any point. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

In addition, given that BWC footage does not depict § 87(2)(b) requesting a name or shield number from any officers aside from PO Melo or any officers frisking § 87(2)(b) and that § 87(2)(b) did not provide a detailed description the other officers who took these actions, § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (V) Discourtesy: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah spoke discourteously to § 87(2)(b)**

**Allegation (W) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Andrea Nieves Santiago seized § 87(2)(b) property.**

**Allegation (X) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Luis Sandres seized § 87(2)(b) property.**

**Allegation (Y) Abuse of Authority: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Mohammad Abdelfattah seized § 87(2)(b) property.**

It is undisputed that § 87(2)(b) was arrested, and PO Abdelfattah and PO Melo told § 87(2)(b) to exit the vehicle because the officers were seizing it. § 87(2)(b) attempted to take the car key and other belongings from the vehicle. PO Abdelfattah told § 87(2)(b) “Give me the fucking key” and grabbed it from her hand. PO Abdelfattah drove § 87(2)(b) vehicle back to the stationhouse and it was later released to § 87(2)(b)

§ 87(2)(b) stated that when § 87(2)(b) was arrested, § 87(2)(b) said that she wanted to take the car with her, but several officers said that she could not.

PO Abdelfattah and PO Nieves Santiago both stated that it was a joint decision among officers to seize the vehicle. PO Sandres stated that he and PO Nieves Santiago decided to seize the vehicle. PO Sandres stated the vehicle was seized because § 87(2)(b) was arrested, he was the driver, and the officers did not know who the owner of the vehicle was. PO Nieves Santiago stated that based on her experience, in this situation, the officers will bring the vehicle to the stationhouse and determine who the owner is through paperwork so that the owner could reclaim it. PO Sandres

had no knowledge of any officers attempting to determine the owner of the vehicle on scene. PO Abdelfattah did not know if the officers ran any checks to confirm the owner of the vehicle during the incident and he denied doing this himself. PO Sandres and PO Nieves Santiago both did not recall § 87(2)(b) informing the officers that the vehicle belonged to her. PO Abdelfattah believed that § 87(2)(b) claimed that the vehicle was hers.

PO Sandres stated that the true owner of the vehicle would be determined by running the vehicle's plate number or VIN to see to whom it came back as being registered. PO Sandres and PO Nieves Santiago both stated that the officers could not run any checks on the vehicle at the scene because of safety concerns. PO Sandres stated that the situation became a hostile environment because of § 87(2)(b) active resistance during his arrest, § 87(2)(b) screaming and getting loud, and § 87(2)(b) coming up to the officers' personal "safe space." PO Nieves Santiago also stated that when the officers were arresting § 87(2)(b) he became a little hostile. PO Nieves Santiago did not recall § 87(2)(b) or any other civilians responding to the scene. PO Nieves Santiago stated that aside from there being safety concerns about releasing the vehicle at the scene, any time a driver is under arrest during a car stop, the officers will take the vehicle back to the stationhouse and figure everything out there because that would be the proper procedure. PO Sandres and PO Nieves Santiago both had no recollection of any officers using profanity during the incident.

PO Abdelfattah stated that after the officers asked § 87(2)(b) to exit the vehicle, she became aggressive and combative as she told the officers that the car was hers. § 87(2)(b) exited the vehicle and started collecting § 87(2)(b) belongings, including the car key, a wallet, and a cell phone. The officers explained that they were taking the car, so § 87(2)(b) could not have the key. § 87(2)(b) refused to give the keys to the officers, so PO Abdelfattah reached for her hand and grabbed the key from her.

PO Abdelfattah initially stated that he did not recall if he said, "Give me the fucking keys" to § 87(2)(b). However, upon viewing 08:21 to 08:25 of his own BWC footage (**BR 08**), he acknowledged doing so. PO Abdelfattah stated that he used profanity when making this statement because it was a high stress moment. In his experience, § 87(2)(b) refusing to give him the car keys led PO Abdelfattah to believe that § 87(2)(b) was possibly trying to conceal something in the car.

At 05:40 into PO Melo's BWC footage (**BR 05**), PO Sandres tells § 87(2)(b) to step out of the car and tells him that he has a warrant. At 07:20, PO Melo tells § 87(2)(b) to get out of the car because the officers must take it. § 87(2)(b) tells PO Melo that she has a license, and the car is her rental. PO Melo tells § 87(2)(b) that she can pick the car up at the stationhouse. At 08:14, § 87(2)(b) steps out of the vehicle and puts on her jacket. PO Abdelfattah asks for the key. § 87(2)(b) leans inside the vehicle through the front passenger door. At 08:31, § 87(2)(b) brings her right arm up with her elbow bent, appearing to put something in her jacket pocket. PO Abdelfattah reaches over to § 87(2)(b) right side. At 08:37, PO Abdelfattah says, "Give me the fucking key. Give me the fucking key." At 11:14 into PO Abdelfattah's BWC footage (**BR 08**), he leaves the scene in the car § 87(2)(b) was driving.

Patrol Guide Procedure 200-02 (**BR 22**) states members of service must respect the dignity of each individual and render services with courtesy and civility. While police officers are held to a high standard of conduct, traditional rules of etiquette cannot be applied to stressful enforcement situations. Disciplinary Case 2013-10143 (**BR 23**) states that officers may use profanities "in the context of a dynamic situation over which [he or she is] attempting to gain control," but may not do so when it "[serves] no legitimate purpose but to belittle" a civilian.

§ 87(2)(g) when PO Abdelfattah said, "Give me the fucking key," § 87(2)(b) was being arrested, the vehicle was being seized, and § 87(2)(b) was refusing a lawful order from PO Abdelfattah to give him the key, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Patrol Guide Procedure 218-19 (BR 25) states when a vehicle comes into police custody, it may be held to determine the true owner of the vehicle.

§ 87(2)(g) it is undisputed that § 87(2)(b) was operating the vehicle at the time of his arrest, and that the officers are permitted in taking a vehicle into custody for the purpose of determining the true owner of the vehicle, § 87(2)(g)

**Allegation (Z) Discourtesy: At Myrtle Avenue and Marcy Avenue in Brooklyn, Police Officer Andrea Nievesantiago spoke discourteously to § 87(2)(b)**

**Allegation (AA) Discourtesy: At the PSA 3 stationhouse, Police Officer Mohammad Abdelfattah spoke discourteously to § 87(2)(b)**

It is undisputed that PO Nieves Santiago told § 87(2)(b) “You fucked up,” while transporting him to the stationhouse. While at the stationhouse, PO Abdelfattah said, “Fucking” while speaking with § 87(2)(b)

PO Nieves Santiago initially stated that she did not recall any officers using profanity during the incident, however upon viewing her own BWC (BR 06) from 14:08 to 14:15, she acknowledged saying, “You fucked up,” to § 87(2)(b) PO Nieves Santiago stated that she used profanity in this moment because she typically tries to “level herself” with a person and speak to them “human to human.” PO Nieves Santiago was essentially telling § 87(2)(b) “It is what it is. Let’s just move forward.” There was no other reason PO Nieves Santiago used profanity. Toward the end of the incident, § 87(2)(b) calmed down with PO Nieves Santiago and he told her that he understood the situation.

PO Abdelfattah acknowledged saying to § 87(2)(b) “Had it not been for you trying to cause a scene on the fucking traffic stop...” PO Abdelfattah stated that he used profanity because the situation was a routine stop and the whole situation could have been avoided. PO Abdelfattah stated that § 87(2)(b) did not have to cause a scene for a traffic stop. PO Abdelfattah explained that he (PO Abdelfattah) was angry about the situation and § 87(2)(b) was not compliant during the incident. There was no other reason PO Abdelfattah used profanity in this moment.

PO Sandres did not recall any officers using profanity during the incident.

At 11:50 into PO Nieves Santiago’s BWC footage (BR 06), she and PO Sandres are transporting § 87(2)(b) to the stationhouse. At 12:15, § 87(2)(b) asks what the warrant was for. At 12:50, PO Nieves Santiago says the officers will explain everything at the precinct. At 14:00, § 87(2)(b) says he just got pulled over the other day. PO Nieves Santiago says, “I never searched your name. I never got in contact with you. This is just a first-time thing and you fucked up. That’s it.”

At 20:00 into PO Sandres BWC footage (BR 07), § 87(2)(b) is handcuffed and being processed in front of the desk. PO Abdelfattah tells § 87(2)(b) “She was trying to take the keys, so had it not been for you trying to cause a scene on the fucking traffic stop....”

Patrol Guide Procedure 200-02 (BR 22) states members of service must respect the dignity of each individual and render services with courtesy and civility. While police officers are held to a high standard of conduct, traditional rules of etiquette cannot be applied to stressful enforcement situations. Disciplinary Case 2013-10143 (BR 23) states that officers may use profanities “in the context of a dynamic situation over which [he or she is] attempting to gain control,” but may not do so when it “[serves] no legitimate purpose but to belittle” a civilian.

Although PO Nieves Santiago used profanity toward § 87(2)(b) in an attempt to calm him down, given that she made this statement toward § 87(2)(b) as he was handcuffed in the backseat of the police vehicle during transport to the stationhouse, § 87(2)(g) it was not within the context of a



dynamic situation in which she was trying to gain control. § 87(2)(g)

§ 87(2)(g) when PO Abdelfattah used profanity at the stationhouse toward § 87(2)(b) in he was handcuffed and being processed at the desk, and that it was in the context of telling him that he caused a scene. § 87(2)(g)

**Allegation (AB) Abuse of Authority: At the PSA 3 stationhouse, Police Officer Luis Sandres searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation (AC) Abuse of Authority: At the PSA 3 stationhouse, Police Officer Andrea Nieves Santiago searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

It is undisputed that PO Sandres and PO Nieves Santiago searched § 87(2)(b) vehicle at the stationhouse after he was arrested, which they both captured on their BWCs. The officers called the Ramapo Police Department (PD) and told them that they had § 87(2)(b) in custody. Ramapo PD informed the officers that they were short on manpower and advised them to release § 87(2)(b) and tell him to turn himself in to their agency.

PO Sandres stated that he conducted an inventory search of § 87(2)(b) vehicle. PO Nieves Santiago initially did not recall who conducted the inventory search of § 87(2)(b) vehicle, however, upon viewing 00:51 to 01:09 of her own BWC footage (BR 06), she acknowledged doing so herself. PO Sandres stated that he searched the vehicle because the officers believed that § 87(2)(b) was going to go to Central Booking. PO Nieves Santiago stated that she searched the vehicle so that it could be vouchered as safekeeping since the officers believed that § 87(2)(b) was going to Ramapo PD. Neither PO Sandres nor PO Nieves Santiago recalled which officer spoke with Ramapo PD about releasing § 87(2)(b) and neither of them knew whether the inventory search occurred before or after this call.

PO Nieves Santiago stated that the purpose of an inventory search is to voucher the vehicle for safekeeping and document what is inside of it to protect the Department from false claims. PO Sandres stated that the purpose of an inventory search is to voucher the vehicle, determine what is inside of it to protect the Department from false claims of theft because it would be at a police facility, and to safeguard it for the registered owner to retrieve it.

PO Sandres stated that he searched the vehicle from bumper to bumper. PO Sandres looked throughout the trunk and the interior of the vehicle, which included the glove compartment, the console, and any pockets or openings. This search also included any bags and belongings inside the vehicle because PO Sandres would need to document everything inside the car. PO Sandres did not recall checking the mechanics of the vehicle, but he stated that doing this would be consistent with an inventory search. PO Sandres explained that § 87(2)(b) could claim that there was damage on the vehicle after the incident, so PO Sandres would do a walk around of the vehicle to check the wheels, the tires, and the fender. PO Sandres stated that an inventory search would not be restricted to the items inside the vehicle and explained that it was also an assessment of the vehicle as a whole. Although PO Nieves Santiago acknowledged searching the vehicle upon viewing her BWC footage, she did not recall details of the search.

PO Sandres and PO Nieves Santiago both denied searching § 87(2)(b) vehicle for contraband or for anything specific. Neither PO Sandres nor PO Nieves Santiago had any specific concern about contraband being inside the vehicle. PO Sandres did not recall what he found inside the vehicle, and he did not recall removing anything from the vehicle. PO Nieves Santiago did not know if anything was removed from § 87(2)(b) vehicle, but she did not think that anything was.



PO Sandres stated that he documented his search with his BWC. PO Sandres did not document the search or what was inside the vehicle on paper anywhere. PO Sandres stated that activating his camera during the search was sufficient to document everything that was inside the vehicle. PO Sandres stated that he was not required to document the search on paper. PO Nieves Santiago stated that an inventory search would probably need to be documented by BWC. PO Nieves Santiago stated that § 87(2)(b) vehicle was ultimately not vouchered because he took it when he was released. PO Sandres stated that vouchers were not prepared because Ramapo PD told the officers that they could release § 87(2)(b) he was let go with a summons, and the vehicle was returned to him.

PO Abdelfattah did not know if any officers searched § 87(2)(b) vehicle. PO Abdelfattah stated that if the vehicle was being vouchered for safekeeping, then the officers could search it. PO Abdelfattah explained that the officers would have to account for every item in the car, such as money or valuables.

01:05 of PO Nieves Santiago's BWC footage (BR 11) and PO Sandres' BWC footage (BR 12) depicts them searching § 87(2)(b) vehicle at the stationhouse. The footage depicts the officers searching throughout the interior of the vehicle, the trunk, underneath the hood, inside a backpack, and underneath the spare tire.

PO Nieves Santiago issued § 87(2)(b) Summons #§ 87(2)(b) (BR 04) for failing to signal.

PO Sandres' (BR 29) and PO Nieves Santiago's (BR 28) memo books do not contain any memo book entries regarding the search of § 87(2)(b) vehicle. A request to Legal Bureau for Property Vouchers associated with § 87(2)(b) yielded negative results (BR 27).

Patrol Guide Procedure 218-13 (BR 24) states officers are required to conduct a thorough search of the interior of any vehicle that "comes into the custody of [the] Department. Property of little value that is left inside the vehicle (e.g., old clothes, cassette tapes, and vehicle parts, etc.) should within reason, be listed in the officer's activity log. All valuables must be removed from the vehicle and invoiced on a separate Property Clerk Invoice.

In People v. Johnson, 1 N.Y.3d 252 (2003) (BR 26) the court held that an inventory search is a search designed to properly catalogue the contents of the item searched. The specific objectives of an inventory search, particularly in the context of a vehicle, are to protect the property of the defendant, to protect the police against any claim of lost property, and to protect police personnel and others from any dangerous instruments. An inventory search must not be a ruse for a general rummaging in order to discover incriminating evidence. Inventory searches should be designed to produce a "meaningful inventory list," which is the "hallmark of an inventory search."

§ 87(2)(g)

Although they both recorded the search on their BWCs, they did not clearly show each item they went through and found, and as such, the search was consistent with general rummaging. Furthermore, both officers acknowledged that they did not prepare vouchers for the vehicle, and neither of the officers' memo books contains a catalogue of the contents of the vehicle. § 87(2)(g)

#### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 34).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 35).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 36).
- PO Melo has been a member of service for four years and has been a subject in seven CCRB complaints and 20 allegations.

- 202103607 involved a substantiated allegation of discourtesy, for which the Board recommended Command Discipline A and the NYPD did not impose discipline.
- § 87(2)(g) [REDACTED]
- PO Abdelfattah has been a member of service for four years and has been a subject in 11 CCRB complaints and 32 allegations.
  - 202103607 involved substantiated allegations of strip search and discourtesy, for which the Board recommended Charges and the NYPD has yet to impose discipline.
  - § 87(2)(g) [REDACTED]
- PO Nieves Santiago has been a member of service for four years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g) [REDACTED]
- PO Sandres has been a member of service for five years and has been a subject in five CCRB complaints and eight allegations, none of which were substantiated. § 87(2)(g) [REDACTED]

#### **Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- On March 3, 2023, a Notice of Claim search request was submitted to the NYC Comptroller's Office, the results of which will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
- [REDACTED]
- [REDACTED]

Squad: \_\_\_\_\_ 16 \_\_\_\_\_

Investigator:	_____ Inv. Dean Signature	_____ Inv. Dean Print Title & Name	_____ 3/8/23 Date
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Squad Leader:	_____ Patrick Yu Signature	_____ IM Patrick Yu Print Title & Name	_____ 03/09/2023 Date
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Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date
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